

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL E. MEGGINSON,

Plaintiff,

-v-

THE STATE OF NEW YORK, *et al.*,

Defendants.

No. 19-CV-7583 (KMK)

ORDER OF SERVICE

KENNETH M. KARAS, District Judge:

Plaintiff Michael Megginson (“Plaintiff”), brings this pro se Action under 42 U.S.C. § 1983, alleging that Defendants violated his rights under the Eighth Amendment by assaulting him while he was an inmate at Sing Sing Correctional Facility. (*See generally* Am. Compl. (Dkt. No. 18).) Plaintiff originally named only the State of New York, the New York State Department of Corrections and Community Supervision (“DOCCS”), Sergeant Soto (“Soto”), and Correction Officer J. Lewis (“Lewis”) as Defendants. (*See* Compl. (Dkt. No. 1).) By Order dated September 4, 2019, the Court directed the Clerk of Court to dismiss the State of New York and DOCCS pursuant to the doctrine of sovereign immunity. (*See* Order of Service 2 (Dkt. No. 6).) The same Order directed service on Soto and Lewis by the U.S. Marshals Service, and directed the New York State Attorney General to ascertain the identities and addresses of seven unnamed officers who Plaintiff alleges assaulted him. (*See id.* at 3–4.)

In September 2019, Soto was served, but the U.S. Marshals were unable to identify or serve Lewis. (*See* Dkt. Nos. 10–12.) On November 5, 2019, the New York State Attorney General filed a letter providing the identities of four corrections officers present during the incident when Plaintiff alleges he was attacked. (*See* Letter from Janice Powers, Esq. to Court 1 (Dkt. No. 13).) The letter names C.O. Delovic, C.O. Berrio, C.O. Jasmin, and C.O. Amaro, and

states that each of these officers “can be served Sing Sing Correctional Facility 354 Hunter Street Ossining NY 10562.” (*Id.*) Pursuant to directions from this Court, (*see* Dkt. Nos. 14, 16), on June 20, 2020, Plaintiff filed an Amended Complaint naming Soto, Delovic, Jasmin, and Amaro (and omitting Lewis) as Defendants. (*See* Am. Compl. (Dkt. No. 18).)

To allow Plaintiff to effect service on Defendants Soto, Delovic, Berrio, Jasmin, and Amaro, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for these Defendants. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon these Defendants.

It is Plaintiff’s responsibility to ensure that service is made within 90 days of the date the summons is issued and, if necessary, to request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012). Plaintiff also must notify the Court in writing if Plaintiff’s address changes, and the Court may dismiss the action if Plaintiff fails to do so.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: August 5, 2020
White Plains, New York



KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE

DEFENDANTS AND SERVICE ADDRESSES

Sergeant Soto
Sing Sing Correctional Facility
354 Hunter Street
Ossining NY 10562

C.O. Delovic
Sing Sing Correctional Facility
354 Hunter Street
Ossining NY 10562

C.O. Berrio
Sing Sing Correctional Facility
354 Hunter Street
Ossining NY 10562

C.O. Jasmin
Sing Sing Correctional Facility
354 Hunter Street
Ossining NY 10562

C.O. Amaro
Sing Sing Correctional Facility
354 Hunter Street
Ossining NY 10562